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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,764	11/07/2005	Kazuhiko Sase	2005_1715A	2676
513 7590 08/18/2008 WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021				
EXAMINER WHITAKER, LATRICE CHENWILL				
ART UNIT 4159		PAPER NUMBER		
MAIL DATE 08/18/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/555,764

**Applicant(s)**

SASE ET AL.

**Examiner**

LATRICE WHITAKER

**Art Unit**

4159

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/US)
- Paper No(s)/Mail Date 11/07/05.
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

### DETAILED ACTION

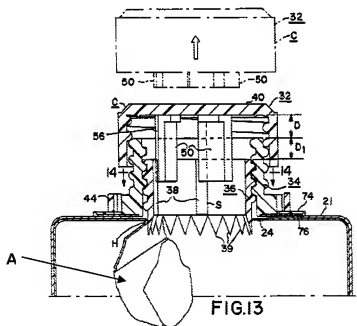
#### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Maietta et al. (US Patent 5,482,176).



3. In re claim 1, Maietta et al. ('176) discloses a paper container (10) for fluid having a spout plug (30) in which the spout plug formed of a spout (34) positioned on a spout hole part for cutting and opening (discharge opening, O) and incorporating a rotary opening blade (36) and a cap (32), is fitted to a top panel (21) having the spout hole part

for cutting and opening , in which a spout hole (22) formed in a paper base material (as described for FIG. 1) is sealed by a sealing layer (24), characterized by comprising a cut and opened piece fall prevention mechanism (hinge, **H**) for leaving, in the spout hole part for cutting and opening, uncut a part of a cut and opened piece (As shown by element **A**, FIG. 13 above) produced when the sealing layer is cut and opened by the rotary opening blade of the spout plug and for endowing the uncut part of a cut and opened piece with a hinge function.

4. In re claim 2, Maietta et al. ('176) discloses a paper container (10) for fluid having spout plug (30) according to claim 1 of the invention is characterized in that the cut and opened piece fall prevention mechanism (**H**) provided in the spout hole part for cutting and opening (**O**) is formed of a protrusion. The applicant does not disclose whether or not this protrusion feature was pre-formed. In Maietta et al. ('176) this protrusion is interpreted as the bunching of the membrane material or sealing layer at a flap location F ('176, column 5, line 17), which is provided on a periphery of the spout hole (22).

5. In re claim 3, Maietta et al. ('176) discloses the a paper container for fluid having a spout plug according to claim 2, characterized in that a hinge portion is formed (column 5, line 17) at a base portion of the protrusion (as described above) by piercing or half-cutting or creasing the paper base material along all or a part of a line connecting portions near the ends of the base portion of the protrusion.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maietta et al. (US Patent 5,482,176).
8. In re claims 4 and 5, Maietta et al. ('176) discloses the claimed invention except wherein a radius of a cutting line of a rotary opening blade of the spout plug mounted onto the spout hole part for cutting and opening provided in the top panel, is smaller than the radius of the spout hole provided in the paper base material, and is larger than the distal end of the protrusion protruding into the spout hole. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the radius of the cutting line of the rotary blade of the spout plug to be smaller than the radius of the spout hole and larger than the distal end of the protrusion since it is known in the art that the radius of a cutting line of a rotary opening blade should be smaller than the radius of the spout hole in order for the rotary blade to fit through the spout hole and larger than the distal end of the protrusion so that the protrusion would fit into the spout hole.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bernstein et al. (US Patent 5,960,922) also discloses a paper container for fluid having a spout plug.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LATRICE WHITAKER whose telephone number is (571)270-5703. The examiner can normally be reached on Mon-Fri 7am-5pm, Alt. Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Nguyen can be reached on 571-272-4491. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Latrice Whitaker  
Examiner  
Art Unit 4159

/George Nguyen/  
Supervisory Patent Examiner, Art Unit 4159